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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KAMRAN AHMED

Appeal 2007-2765
Application 09/526,442
Technology Center 2600

Decided: February 11, 2008

Before MAHSHID D. SAADAT, SCOTT R. BOALICK,
and MARC S. HOFF, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1-7, which constitute all of the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

Appellant invented a method and apparatus for controlling a single graphic controller system with a single memory subsystem. The method provides for displaying outputs for at least two display devices and controlling surface selection, conversion, combination, and scaling of the output image (Specification 2).

Independent Claim 1 is exemplary and reads as follows:

1. A method of providing a display output for at least two display devices using a single graphic controller system, the method comprising:

providing a first display controller able to read from a graphics memory at least two first surfaces into at least two pixel paths, convert at least one of the at least two first surfaces, scale at least one of the at least two first surfaces, and at least one of blend and overlay the at least two first surfaces, said first surfaces containing any one of RGB and YUV format video;

providing a second display controller able to read from a graphics memory at least two second surfaces into at least two pixel paths, convert at least one of the at least two second surfaces, scale at least one of the at least two second surfaces, and at least one of blend and overlay the at least two second surfaces, said second surfaces containing any one of RGB and YUV format video;

causing said first display controller to select and read said first surfaces, convert said first surfaces into a like first format at least when said first surfaces are not all in said like first format, scaling at least one of said first surfaces, at least one of blending and overlaying said first surfaces to obtain a combined first surface, and outputting said combined first surface to provide a first output stream of pixel data;

causing said second display controller to select and read said second surfaces, convert said second surfaces into a like second format at least when

said second surfaces are not in said like second format, scaling at least one of said second surfaces, at least one of blending and overlaying said second surfaces to obtain a combined second surface, and outputting said combined second surface to provide a second output stream of pixel data,

whereby flexibility is provided by selection of said first and second surfaces as well as scaling and blending of said first and second surfaces, whether said surfaces are in RGB format, YUV format or mixed RGB/YUV format.

The Examiner relies on the following prior art in rejecting the claims:

Ranganathan	US 5,764,201	Jun. 9, 1998
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Claims 1-7 stand rejected under the first paragraph of 35 U.S.C. § 112 as containing subject matter which was not described in the Specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

Claim 1 stands rejected as being unpatentable under 35 U.S.C. § 103(a) over Ranganathan.

Rather than repeat the arguments here, we make reference to the Briefs (Appeal Brief, filed Aug. 13, 2003; Reply Brief, filed Mar. 29, 2004; Suppl. Reply Brief, filed Oct. 11, 2005) and the Answer (mailed May 22, 2006) for the respective positions of the Appellant and the Examiner.

We reverse.

ISSUES

The first issue on appeal turns on whether under the first paragraph of 35 U.S.C. § 112 the Specification, as originally filed, supports blending and overlaying the first and second surfaces and whether the May 13, 2003 amendment made to the Specification constitutes new matter. The second issue is whether a preponderance of the evidence before us shows that under 35 U.S.C. § 103, the teachings of Ranganathan and its modifications, as proposed by the Examiner, teach or suggest the claimed subject matter.

FINDINGS OF FACT

The following findings of fact (FF) are relevant to the issues involved in the appeal and are believed to be supported by a preponderance of the evidence.

1. Appellant's Specification states:

At the same time a computer environment desktop is stored in RGB format in another surface within graphics memory. These two surfaces can be combined to provide the YUV source within a window on the desktop. (Specification 1:19-22).

2. Ranganathan relates to graphics controllers for video display systems which drive both a CRT and a flat-panel display (col. 1, ll. 14-16 and col. 3, ll. 20-21).

3. Ranganathan further discloses that two pixel muxes are used for selecting graphics pixels from a first output or movie-overlay pixels from a second output, which are coupled to each of the CRT and the flat-panel display. Simultaneous control means causes the same image or different images to be displayed on the displays. (Col. 3, ll. 20-58).

4. Ranganathan discloses that the pixels from the YUV path cause a full-screen image to be displayed on the CRT while the RGB pixels are displayed as a standard graphic image. The image cannot be a combination of a smaller movie window on a graphics background unless additional logic is added. (Col. 7, ll. 56-65).

5. Ranganathan also discloses that a television monitor rather than a CRT monitor may be driven. Two different CRT monitors or two different flat-panel displays may be driven rather than one CRT and one flat-panel display. With two identical monitors, twice the graphics area may be displayed. (Col. 12, ll. 8-12).

PRINCIPLES OF LAW

Written Description

“The purpose of the written description requirement is to prevent an applicant from later asserting that he invented that which he did not; the applicant for a patent is therefore required ‘to recount his invention in such detail that his future claims can be determined to be encompassed within his original creation.’” *Amgen Inc. v. Hoechst Marion Roussel Inc.*, 314 F.3d 1313, 1330 (Fed. Cir. 2003) (citing *Vas-Cath Inc. v. Mahurkar*, 935 F.2d 1555, 1561 (Fed. Cir. 1991)). While there is no requirement that the claimed invention be described in the identical wording that was used in the Specification, there must be sufficient disclosure to show one of skill in this

art that the inventor “invented what is claimed.” *See Union Oil Co. of California v. Atlantic Richfield Co.*, 208 F.3d 989, 997 (Fed. Cir. 2000).

The written description must be of sufficient detail to show possession of the full scope of the invention. *Pandrol USA LP v. Airboss Railway Products Inc.*, 424 F.3d 1161, 1165 (Fed. Cir. 2005).

Obviousness

The examiner bears the burden of establishing a prima facie case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532 (Fed. Cir. 1993); *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). Only if this burden is met does the burden of coming forward with rebuttal argument or evidence shift to the applicant. *Rijckaert*, 9 F.3d at 1532.

When the references cited by the examiner fail to establish a prima facie case of obviousness, the rejection is improper and will be overturned. *In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988). *See also In re Zurko*, 258 F.3d 1379, 1383, 1385 (Fed. Cir. 2001) (reversing as unsupported by substantial evidence a finding of motivation to combine cited references, where the Board adopted Examiner's unsupported assertion that claim limitation missing from cited references was “basic knowledge” and it “would have been nothing more than good common sense” to combine the references, and explaining that “[t]his assessment of basic knowledge and common sense was not based on any evidence in the record”). Additionally, “there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR Int’l v. Teleflex, Inc.*,

127 S. Ct. 1727, 1740-41 (quoting *In re Kahn*, 441 F.3d 977, 987 (Fed. Cir. 2006)).

Further, a rejection based on section 103 must rest upon a factual basis rather than conjecture, or speculation. “Where the legal conclusion [of obviousness] is not supported by the facts it cannot stand.” *In re Warner*, 379 F.2d 1011, 1017 (CCPA 1967). *See also In re Kahn*, 441 F.3d at 988.

ANALYSIS

35 U.S.C. § 112 Rejection of Claims 1-7

With respect to the written description and new matter issues, the Examiner takes the position that changing “combine (blend and/or overlay) the at least two first surfaces” to “at least one of blend and overlay the at least two first surfaces” has no support in the originally filed Specification including the Specification incorporated by reference (Ans. 4). The Examiner asserts that neither the original nor the amended Specification describes how the display controller is capable of blending and overlaying two surfaces, as the originally filed Specification does not support doing both at the same time (Ans. 5 and 10-17).

Appellant contends that the terms “blend” and “overlay” are common terms in the art and are understood to mean merging two images and laying one surface on top of another, respectively (Br. 6-7). Appellant further argues that the Specification, including the material incorporated by reference, describes how the drawing engine 60 in Figure 1 performs both blending and overlaying (Br. 7-10).

The Examiner further argues that the disclosure also fails to show the “other window or desktop, etc.” is an RGB display, as the originally filed application only included windows desktop, which is more specific than the proposed adding RGB desktop (Ans. 18-19). Appellant directs our attention to the first page of the Specification and argues that the disclosure as a whole implies that the RGB desktop is inherent to the Applicant’s Specification (Reply Br. 6-8 and Supp. Reply Br. 5).

Upon a review of the arguments and the evidence of record, we find Appellant’s arguments to be persuasive. The original disclosure remains uncontested as having recited the feature of “blend and/or overlay” which clearly includes both blend and overlay. As argued by Appellant, the change to the current language of “at least one of blend and overlay” removes the alternative language “or” while being within the bounds of the disclosed invention. Additionally, the prior application that is incorporated by reference shows the claimed features in Figure 4.

Regarding the issue of whether the added Figure 4 shows an RGB desktop, the background section of Appellant’s Specification addresses the RGB format for storing images in a computer desktop environment which can be combined with a YUV video source on the desktop (FF 1). Reviewing the Specification in the context of the full scope of the claimed invention, we find that while the Specification mentions “Windows desktop” (see, e.g., Specification 6:11-16), the Specification generally refers to desktops and CRTs for displaying images. Thus, contrary to the Examiner’s assertion, upon reading Appellant’s disclosure a person of ordinary skill in

the art would be led to the conclusion that the controller would be able to perform both blending and overlaying, and that the desktop is RGB while not necessarily being a Windows desktop according to the claimed invention.

As there is sufficient disclosure in Appellant's Specification with respect to the blending and overlaying the surfaces and with respect to an RGB desktop, we find that the newly added limitation requiring "at least one of blend and overlay the at least two first surfaces" represents a disclosed feature within the scope of the claimed and disclosed invention that represents no new matter. While the Examiner asserts that such limitation was not supported by the originally filed Specification including "combine (blend and/or overlay)" feature, the totality of the evidence of record supports the opposite position. In our opinion, a person of ordinary skill in the art would recognize that the meaning of "at least one of blend and overlay the at least two first surfaces" coincides with that of "combine (blend and/or overlay)". Accordingly, we do not sustain the rejection of claims 1-7 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the Specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

35 U.S.C. § 103(a) Rejection of Claim 1

Appellant contends that in the dual-path graphics controller of Ranganathan, both paths are coupled to a graphics memory and cannot display a YUV format video overlayed on a desktop on one output while

displaying YUV format video in a window overlaid on a desktop on another output device (Br. 11-13). Appellant further argues that Ranganathan does not disclose or suggest adding a second display controller within a display controller system wherein both controllers have blending and overlaying capability of both YUV and RGB surfaces, even if additional logic is added (Br. 13-14).

The Examiner relies on the disclosure of Ranganathan in columns 7 and 12 and asserts that teaching additional logic and driving two different displays suggests the claimed first and second display controllers (Ans. 19-20). The Examiner argues that the additional logic for the second controller is nominal since the claim only requires blending or overlaying, not both, which is shown in Ranganathan's dual monitor display (Ans. 20-21).

Initially we note that, contrary to the Examiner's position, the claim can only require blending or overlaying, not both, and as discussed above with respect to the § 112 rejection, each display controller combines the surfaces by both blending and overlaying. Additionally, upon a review of the applied prior art, we agree with Appellant and find that, by stating that without additional logic the displayed image cannot be a combination of a smaller movie window on a graphics background, Ranganathan fails to teach or suggest the claimed invention. As pointed out by Appellant (Reply Br. 8-9; Suppl. Reply Br. 5), Ranganathan uses the existing paths to display two different full screen images on two separate displays (FF 2-3). Ranganathan clearly indicates that the displayed image cannot be a combination of a smaller movie window on a graphic background using the existing

arrangement (FF 4). What the examiner characterizes as overlaying a movie window onto graphics in Column 12 (Ans. 19), is correctly pointed out by Appellant (Br. 13) to be limited to a suggestion for using the existing logic or addition of extra logic (Ranganathan, col. 12, ll. 13-22). We do not find convincing the Examiner's line of reasoning that such additional logic necessarily means a second display controller. As argued by Appellant (Br. 13-14), the Examiner's suggestion for additional logic to be a second display controller goes beyond the disclosure of the reference and, rather than any evidence of record, finds its basis only in speculation (FF 4-5).

Therefore, we find that the Examiner's rejection rests on speculation and is supported by less than a preponderance of the evidence and thus, fails to provide sufficient support for finding claim 1 unpatentable for obviousness under 35 U.S.C. § 103(a) over Ranganathan.

DECISION

The decision of the Examiner rejecting claims 1-7 under 35 U.S.C. § 112 and claim 1 under 35 U.S.C. § 103 is reversed.

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Application 09/526,442

REVERSED

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